

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

NEBRASKA TURKEY GROWERS)	4:05CV3060
COOPERATIVE ASSOCIATION,)	
)	
Plaintiff,)	MEMORANDUM
)	AND ORDER
vs.)	
)	
ATS LOGISTICS SERVICES, INC.,)	
)	
Defendant and)	
Third-Party Plaintiff,)	
)	
vs.)	
)	
JENNIFER’S DELIVERY SERVICE,)	
)	
Third-Party Defendant.)	

On December 20, 2005, the court entered a memorandum and order that, among other things, directed Plaintiff within twenty days either (a) to show cause why this action should not be dismissed on the ground that it is not prosecuted in the name of the real party in interest or (b) to effect the ratification, joinder, or substitution of the real party in interest. This order was intended to comply with the requirements of Federal Rule of Civil Procedure 17(a). On January 5, 2006, Plaintiff filed a response to the show cause order which simply recites that Plaintiff’s counsel of record “is in the process of negotiating a settlement of this matter with counsel for the Defendant, and any dismissal would be premature and not in the best interest of justice.” (Filing 48.)

This filing is not an adequate response to the court’s show cause order, nor does it provide any legitimate reason for a continuance or stay. Because Plaintiff has

not shown that it has any interest in this litigation, Defendant's motion for summary judgment will be granted and the action, including any and all claims, counterclaims, cross-claims, and third-party claims,¹ will be dismissed.

IT IS ORDERED that:

1. Defendant's motion for summary judgment (filing 38) is granted.
2. Judgment shall be entered by separate document, providing generally that this action, including all claims, counterclaims, cross-claims, and third-party claims, is dismissed for the reason that it is not prosecuted in the name of the real party in interest.

January 12, 2006.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge

¹ Defendant's third-party complaint (filing 8) only seeks indemnification from Jennifer's Delivery Service in the event Defendant is found liable to Plaintiff. No cross-claims or counterclaims are on file.